

**State of California
AIR RESOURCES BOARD**

EXECUTIVE ORDER S-18-001

**Relating to Approval of Amended Regulations for
Field Fumigant Use Requirements**

WHEREAS, the Legislature in Health and Safety Code section 39602 has designated the California Air Resources Board (CARB or Board) as the air pollution control agency for all purposes set forth in federal law;

WHEREAS, CARB is responsible for the preparation of the California State Implementation Plan (SIP) for attaining and maintaining the national ambient air quality standards (NAAQS) as required by the federal Clean Air Act (CAA) (the "Act"; 42 U.S.C. section 7401, et seq.), and to this end is directed by Health and Safety Code section 39602 to coordinate the activities of all local and regional air pollution control and air quality management districts (districts) necessary to comply with the Act;

WHEREAS, section 39602 of the Health and Safety Code also provides that the SIP shall include only those provisions necessary to meet the requirements of the Act;

WHEREAS, sections 39515 and 39516 of the Health and Safety Code delegate to the Executive Officer the authority to act for the Board in this matter;

WHEREAS, the Department of Pesticide Regulation (DPR) has primary responsibility for the control of air pollution from agricultural and commercial/industrial pesticide usage;

WHEREAS, DPR has an approved SIP commitment to reduce agricultural and commercial/industrial pesticide volatile organic compound (VOC) emissions in the Sacramento Metropolitan, San Joaquin Valley, South Coast, Southeast Desert, and Ventura County federal ozone nonattainment areas;

WHEREAS, on November 14, 1994, CARB submitted to the U.S. Environmental Protection Agency (U.S. EPA) the Pesticide Element as part of California's comprehensive 1-hour ozone attainment plan (known as the 1994 Ozone SIP) and included a plan by DPR to reduce VOC emissions from agricultural and structural pesticides in the Sacramento Metropolitan, San Joaquin Valley, South Coast, Southeast Desert, and Ventura County nonattainment areas;

WHEREAS, on January 8, 1997, U.S. EPA approved the Pesticide Element of the 1994 Ozone SIP for the five nonattainment areas areas listed above;

WHEREAS, on October 12, 2009 and August 2, 2011, CARB submitted to U.S. EPA revisions to the Pesticide Element which included revisions to DPR's fumigant regulations and its revised SIP commitment for the San Joaquin Valley;

WHEREAS, on October 26, 2012, U.S. EPA approved revisions to the California SIP Pesticide Element that applied to the South Coast, Southeast Desert, San Joaquin Valley, Sacramento Metro ozone nonattainment areas, as well as Ventura County;

WHEREAS, on February 17, 2016, DPR finalized amendments to *Regulation No. 15-002: Field Fumigant Use Requirements* (Title 3, California Code of Regulations sections 6000, 6445, 6447, 6447.2, 6447.3, 6448.1, 6449.1, 6450.1, 6452, 6452.2, and 6784) which reduce fumigant emissions;

WHEREAS, the proposed amendments are needed because they would revise existing field fumigation methods to further reduce fumigant emissions, improve ozone air quality, and support DPR's SIP commitments in the Sacramento Metropolitan, San Joaquin Valley, South Coast, Southeast Desert, and Ventura ozone nonattainment areas when using methyl bromide, 1,3-Dichloropropene (1,3-D), chloropicrin, metam-sodium, and potassium N-methyldithiocarbamate (metam-potassium);

WHEREAS, on December 18, 2017, DPR requested that CARB submit to U.S. EPA, for inclusion in California's SIP, the following eight specific sections of DPR's regulations (Field Fumigant Use Requirements):

1. Title 3, CCR section 6000 pertaining to definitions;
2. Title 3, CCR section 6445 pertaining to fumigation handling activities;
3. Title 3, CCR section 6447 pertaining to methyl bromide field fumigation general requirements, buffer zone requirements, and field fumigation methods;
4. Title 3, CCR section 6448 pertaining to 1, 3-dichloropropene field fumigation methods;
5. Title 3, CCR section 6449 pertaining to chloropicrin field fumigation methods;
6. Title 3, CCR section 6450 pertaining to metam-sodium and metam-potassium field fumigation methods;
7. Title 3, CCR section 6452 pertaining to fumigant VOC emission limits;
8. Title 3, CCR section 6784 pertaining to field fumigation.

WHEREAS, federal law set forth in section 110(l) of the Act and title 40, Code of Federal Regulations (CFR), section 51.102 requires that one or more public hearings, preceded by at least 30 days' notice and opportunity for public review, must be conducted prior to the adoption and submittal to U.S. EPA of any SIP revision;

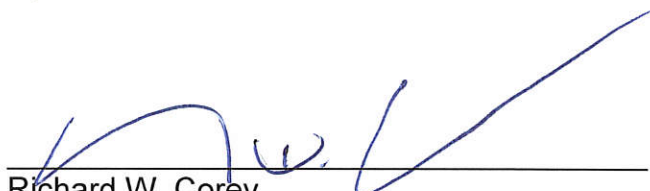
WHEREAS, DPR made the initial Field Fumigant Use Requirements regulatory language available for public review and comment for 45 days and the revised regulatory language available for public review and comment for 15 days, and DPR conducted a noticed public hearing in Bakersfield, California, prior to adoption of and/or revisions to the Field Fumigant Use Requirements, as required by the Act and U.S. EPA;

WHEREAS, the Executive Officer finds that the Field Fumigant Use Requirements will help achieve the needed VOC reductions by making additional effective low-emission field fumigation methods available permanently;

WHEREAS, the Executive Officer finds that the Field Fumigant Use Requirements will strengthen the California SIP and ensure that VOC emissions from agricultural and commercial/industrial pesticides are reduced; and

NOW, THEREFORE, IT IS ORDERED, that the Executive Officer hereby adopts and submits to the U.S. EPA as a SIP revision the Field Fumigant Use Requirements. BE IT FURTHER ORDERED, that CARB certifies, pursuant to 40 CFR 51.102, that the Field Fumigant Use Requirements being submitted as a SIP revision were adopted after notice and public hearing as required by 40 CFR 51.102.

Executed at Sacramento, California this 23rd day of April, 2018.



Richard W. Corey
Executive Officer

